

REMARKS

This is a complete response to the outstanding final Office Action mailed June 2, 2005. Upon entry of the enclosed claim amendments, claims 1-27 have been canceled and claims 28-38 have been added herein. No new matter was added in claims 28-38. Support for new claims 28-38 may be found in, for example, canceled claims 16-27. Claims 28-38 remain pending in the present application. Applicant appreciates the Examiner's indication that claims 16-27 are allowable over the art of record. Independent claim 28 incorporates the allowable elements of canceled independent claim 26 and should be allowed for the same reason as indicated by the Examiner.

The Section 112 enablement rejection should not be applied to claims 28-38 as previously applied to claims 13-27. When rejecting a claim under the enablement requirement of Section 112, the Patent Office bears the burden of setting forth a reasonable explanation as to why it believes that the scope of protection provided by the claim is not adequately enabled by the description of the invention provided in the specification of the application; this includes of course, providing sufficient reasons for doubting any assertions in the specification as to the scope of enablement.

In re Wright, 999.F.2d 1557, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993).

To establish a prima facie case the Examiner must provide with respect to the disclosure of the patent application:

1. A rational basis as to why the disclosure does not teach or why the objective truth of the statements in the disclosure do not purport to teach:

2. the manner and process of making and using the invention, See Staehlin v. Secher, 24 USPQ2d 1513, 1516 (B.P.A.I. 1992).

3. that corresponds in scope to the claimed invention, See In re Moore, 439 F.2d 1232, 169 USPQ 236, 238-39 (C.C.P.A. 1971),

4. to one of ordinary skill in pertinent technology, See In re Naquin, 398 F.2d 863, 158 USPQ 317 (C.C.P.A. 1968),

5. without undue experimentation, Hildreth v. Mastras, 257 U.S. 27, 34 (1921); and

6. dealing with subject matter that would not already be known to the skilled person as of the filing date of the application, In re Howarth, 654 F.2d 103, 210 USPQ 689 (C.C.P.A. 1981).

Applicant, has acknowledged that a switching apparatus with a broadband connection has been publicly known or used prior to the

filing date of the application. For example, U.S. patent 5,754,636 by Bayless et al. (referred hereinafter "Bayless") issued on May 19, 1998 prior to the filing of this application on December 7, 1999 discloses a switching apparatus with a broadband connection. Figure 1 of Bayless discloses a switching apparatus (element 16) with a broadband connection (element 17) providing channels for incoming trunks (element 46), agent stations (element 44), and resources (elements 50). The switching apparatus (element 16) may communicate with other server computer system that provided the same or different services to the client. See column 7, line 66 to column 8, line 14 of Bayless. Applicant disclosure of the CCPRO was illustrative of these well-known switching devices and is within the knowledge of someone skilled in the art of telephony switching apparatus.

Applicant has drafted independent claim 28 in Jepson format in order to specifically distinguish Applicant's invention over the prior art acknowledged by the Applicant as prior art. Applicant claims a switching apparatus with B (number of switching device channels) greater than or equal to T (number of trunk channels) plus S (number of agent station channels). By reserving channels of the switching apparatus to couple to another switching

device, a fault tolerance system may be provided that prevents the possibility of blocking channels. The reserving of channels may also provide an expandable architecture without burdening the existing resources of other switching devices. None of the cited references have disclosed, taught, or suggested a switching apparatus reserving B (number of switching device channels) greater than or equal to T (number of trunk channels) plus S (number of agent station channels). Therefore, for at least this reason claim 28 is allowable.

Based on the original specification an individual skilled in the art at the time of the invention would understand how to modify a switching device or platform and allocate channels in the manner provided by Applicant's original specification. As provided in the specification by way of example, a CCPRO platform may be used by an individual skilled in the art to allocate channels between the four points of interface of the CCPRO platform in the manner claimed by the Applicant. While Applicant is acknowledging that the four points of interface may not be new, allocating the bandwidth of the four points of interface in the manner claimed by Applicant is new and non-obvious. An individual skilled in the art would understand based on Applicant

specification that one manner of manipulating the channels allocated to the four points of interface would be by modifying the bandwidth provided by the time division multiplexing of channels by CCPRO platform to the four points of interface.

It should be apparent that the scope of Applicant's invention is not limited to the CCPRO platform nor the allocating of bandwidth using time divisional multiplexing. One skilled in the art would appreciate a variety of other techniques to implement allocating channels in the manner provided by Applicant's original specification and claims as well as implementing the techniques on other switching device platforms other than the CCPRO.

The prior Office Actions have not provided: (1.) a rational basis as to why the disclosure does not teach or why the objective truth of the statements in the disclosure do not purport to teach; (2.) the manner and process of making and using the invention that the Office Action purports is not enabled by the disclosure; (3.) the manner and process of making and using the invention that corresponds in scope to the claimed invention; (4.) the level of one of ordinary skill in pertinent technology that would prevent the manner and process of making and using the invention as defined in previous elements 2 and 4; (5.) the undue

experimentation required by one of ordinary skill in pertinent technology; and (6.) one of ordinary skill dealing with subject matter that would not already be known to the skilled person as of the filing date of the application. The Patent Office must provide the above aspects in order to assert and maintain a Section 112 enablement rejection.

CONCLUSION

In light of the foregoing comments and for at least the reasons set forth above, Applicant respectfully submits that all objections have been traversed, rendered moot and/or accommodated, and that presently pending claims 28-38 are in condition for allowance. Applicant has responded to all of the Examiner's requests. Favorable reconsideration and allowance of the present application and the presently pending claims are hereby courteously requested. The examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

Jose Villena et al.

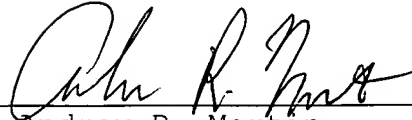
In re: Jose Villena et al.

Filed: December 7, 1999

Serial No.: 09/456,166

Page 12

By



Andrew R. Martin

Registration No. 45,413

Attorney for Applicant(s)

BOURQUE & ASSOCIATES, P.A.

835 Hanover Street, Suite 301

Manchester, New Hampshire 03104

Telephone: (603) 623-5111

Facsimile: (603) 624-1432

Date: 3-2-06